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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/915,053

07/25/2001

Antonio Bogat

9422

6099

26884

7590

05/06/2004

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EXAMINER

BARNIE, REXFORD N

ART UNIT

PAPER NUMBER

2643

3

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/915,053

Applicant(s)

BOGAT, ANTONIO

Examiner

REXFORD N BARNIE

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 25 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*R. N. Barnie*  
REXFORD BARNIE  
PRIMARY EXAMINER

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 5, 7-9, 15, 16, 18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Demoff et al. (US Pat# 6,456,984).

Regarding claims 1 and 8, Demoff teaches a system for supporting consumer transactions billed to an account through a cellular telephone comprising a merchant data receiver for receiving merchant transaction from a merchant terminal (see 20 of fig. 1, col. 6 lines 18-26), a consumer data receiver for receiving consumer transaction data from a cellular telephone at the transaction site (see col. 5 lines 25-31, claim 13, col 4 lines 10-16, abstract) and a transaction processor for processing the transaction

Regarding claims 2 and 9, it's an inherent process to generate a record for purchased items and approve the transaction in (see fig. 8).

Regarding claim 4, Demoff teaches a system for supporting consumer transactions billed to an account through a cellular telephone comprising a merchant data receiver for receiving merchant transaction from a merchant terminal (see 20 of fig. 1, col. 6 lines 18-26), a consumer data receiver for receiving consumer transaction data

from a cellular telephone at the transaction site (see col. 5 lines 25-31, claim 13, col. 4 lines 10-16, abstract) and a transaction processor for processing the transaction

Regarding claims 5 and 7, The billing or payment system (service provider) has to approve to have purchases billed to a telephone account.

Regarding claim 15, see the explanation as set forth in claim 1 because the claimed method would be performed by the apparatus set forth in claim 1.

Regarding claims 16, 18 and 20, The combination teaches the claimed subject matter in (see disclosure). The vendor would have to be compensated for rendered service by inherently identifying the account information.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 10, 11, 12, 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demoff et al. (US Pat# 6,456,984) in view of Zeitman (US pat# 5,940,481).

Regarding claims 3, 10, 12, 14 and 17, Demoff fails to teach the claimed subject matter in detail but Zeitman teaches a management system wherein a terminal can receive an approval code in (see col. 5, figs. And disclosure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Zeitman thus making it possible to authenticate subscribers for services.

Regarding claim 11, The combination including Demoff teaches the claimed subject matter in (see cols. 6-7).

Claims 6, 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Demoff et al. (US Pat# 6,456,984) in view of Zeitman (US pat# 5,940,481) and further in view of Showghi et al. (US pat# 6,473,739).

Regarding claims 6, 13 and 19, the combination including Zeitman teaches the possibility of using a plurality of different accounts but fails to teach the possibility of displaying the options as taught by Showghi in (see fig. 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Showghi thus giving users the flexibility to use any desired account for goods and/or services.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is (703)306-2744. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER  
REXFORD BARNIE, 04/28/04

*RBarnie*  
REXFORD BARNIE  
PRIMARY EXAMINER